

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

v.

KEVIN EUGENE MASON

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No. 3:00-CR-104

MEMORANDUM AND ORDER

This criminal case is before the court on the defendant's *pro se* motion brought pursuant to 18 U.S.C. § 3582(c) for a reduction in his sentence under the retroactive amendment to the crack cocaine guidelines [doc. 26]. The government has filed four responses objecting to a reduction in the defendant's sentence [docs. 28, 30, 31, and 32]. Pursuant to the court's Scheduling Order, the probation office has submitted a Memorandum Regarding Retroactivity related to the defendant's sentence.

Section 3582(c)(2) allows this court to reduce a defendant's term of imprisonment if the defendant's sentencing range has been lowered by the Sentencing Commission, but any reduction must be consistent with applicable policy statements issued by the Sentencing Commission. Section 1B1.10 of the sentencing guidelines implements such reductions. It states in relevant part, as does the statute, that "the court **may** reduce the defendant's term of

imprisonment.” USSG § 1B1.10(a)(1). The Application Notes specifically advise that the court has discretion to consider whether a reduction is warranted and the amount of any such reduction, USSG §1B1.10, comment. (n.1).

In this case, the probation officer has advised the court that the defendant is currently enrolled in the Bureau of Prisons 500-Hour Inpatient Drug Treatment Program, which he will complete on June 30, 2008. The defendant is scheduled to be released to a halfway house on July 8, 2008. This court is of the opinion that the defendant has the best chance of leading a drug and crime free life after he is released from prison if he completes the drug program. The court finds that a reduction, if any, in the defendant’s sentence would interfere with his treatment and would not be in the defendant’s best interests.

Therefore, the court will exercise its discretion in this case, and it is hereby **ORDERED** that the defendant’s motion is **DENIED**. The court encourages the defendant to complete the drug treatment program, including the halfway house component, as that will be his best chance to be successful after he leaves prison.

ENTER:

s/ Leon Jordan
United States District Judge